

Appl. No. 10/810,130
Amdt. dated August 25, 2006
Reply to Office Action of May 26, 2006

Amendments to the Drawings:

The attached sheets of drawings include changes to Figs. 1, 6 and 11. These sheets, which include Figs. 1, 6 and 11, replace the original sheets including Figs. 1, 6 and 11.

Attachment: Replacement Sheets

REMARKS/ARGUMENTS

Claims 1 - 23 are presented for Examiner Waggoner's consideration.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

Applicants have amended Figs. 1, 6 and 11 of the drawings. In Figs. 1 and 6, numeral 50 and a lead line have been added pointing to the second hinge. In Fig. 11, numeral 26 and a lead line has been added at two locations pointing to the first hinge members.

By way of the Office Action mailed May 26, 2006, Examiner Waggoner objected to the drawings under 37 CFR 1.83(a) stating that the coaxial alignment of the first and second hinges was not adequately shown and therefore the drawings should be amended or the claim language should be amended. Applicants have amended their claims 1, 6, 10, 16 and 20 to remove the word "coaxially". Accordingly, the drawings do not need to be amended to show this feature.

By way of the Office Action mailed May 26, 2006, Examiner Waggoner rejected claims 1 – 23 under 35 U.S.C. § 112, first paragraph, for failing to comply with the enablement requirement. Examiner Waggoner was unclear how the two living hinges could be "coaxially" aligned. This rejection is respectfully **traversed** in view of the amendments made to claims 1, 6, 10, 16 and 20.

Applicants have amended claims 1, 6, 10, 16 and 20 to remove the word "coaxially". Applicants attorney spoke to Examiner Waggoner on August 1, 2006, and Examiner Waggoner suggested the phrase "along a common axis" since this is clearly shown in a number of Applicants' drawings. This rejection is now rendered moot and should be withdrawn.

By way of the Office Action mailed May 26, 2006, Examiner Waggoner rejected claims 1, 4, 5, 6, 8, 16, 19 and 20 under 35 U.S.C. § 102(b) as allegedly being anticipated and thus unpatentable over U.S. Patent Number 4,964,526 to Stephens. This rejection is respectfully **traversed** in view of the amendments made to independent claims 1, 10 and 16.

Applicants have amended independent claims 1, 10 and 16. Paragraph b) of claims 1 and 10 has been amended to recite that the second member has a "top wall" (36) and the second entrance (32) is formed "therethrough" versus "therein". Basis for this language is found in the specification at page 8, lines 35 – 36. These features are also depicted in the drawings. Figs. 5 -7 of the drawings clearly show the top wall (36) and Figs. 1 and 11 clearly show the second entrance (32) is formed through the top wall (36). In addition, paragraph c) of claims 1 and 10 has been amended to delete the word "coaxially" and have substituted the phrase with "along a common axis". Basis for the phrase "along a common axis" is clearly shown in Figs. 1, 5, 6, 10 and 11 of the drawings. Lastly, a grammatical correction has been made in paragraph c) by inserting the

word "is" when referring to the fact that the third member is capable of pivoting on the second hinge. Independent claim 16 has been amended in an identical fashion as claims 1 and 10 except for that the top wall is stated to be an exterior wall. Basis for this change is clearly shown in Figs.1, 5 and 11 of the drawings. No new matter has been introduced into these claims and therefore they should be entered at this time.

The Stephens patent (U.S. 4,964,526) does not anticipate Applicants' presently claimed invention because Stephens does not teach or suggest forming a second entrance in the top wall of the second member. In fact, the top wall 42 in Stephens, see Fig. 2, is a solid wall with no entrances formed therethrough. Instead, Stephens teaches away from Applicants' presently claimed invention by teaching one skilled in the art to form the apertures or entrances in the internal plates 70 and 80. Furthermore, Applicants' presently amended independent claim 16 is further patentably distinguished from Stephens in that the second entrance is formed through the exterior top wall. Stephens does not suggest that his top wall should have an entrance formed therethrough. In fact, Fig. 2 of Stephens clearly shows that the top wall 42 is not apertured. In view of this, Applicants do not believe that Stephens anticipates their invention. Accordingly, Applicants verily believe that amended independent claims 1, 10 and 16, as well as dependent claims 2 - 9, 11 - 15 and 16 – 23, are patentably distinct over Stephens and should be allowed at this time.

By way of the Office Action mailed May 26, 2006, Examiner Waggoner rejected claims 2, 3, 10 and 12 – 15 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 4,964,526 to Stephens in view of U.S. Patent Number 5,542,567 to Julius. This rejection is respectfully traversed in view of the amendments made to independent claims 1 and 10.

Examiner Waggoner admits that Stephens does not teach or disclose that the first and second members are integrally formed or molded. Examiner Waggoner cites Julius as disclosing this feature. However, the combination of Stephens and Julius still fails to render Applicants' invention obvious. The combination does not teach one skilled in the art to form a second entrance through the top wall of the second member. The combination fails to teach or disclose that the third member has a second hinge and is secured to the first member along a common axis with the first hinge. In view of this, Applicants believe that their claims 2, 3, 10 and 12 -1 5 are patentably distinct over the combination of Stephens and Julius and should be allowed at this time.

By way of the Office Action mailed May 26, 2006, Examiner Waggoner rejected claims 7, 9, 11, 17 and 18 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 4,964,526 to

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Stephens in view of U.S. Patent Number 5,542,567 to Julius. This rejection is respectfully **traversed** in view of the amendments made to independent claims 1, 10 and 16.

Examiner Waggoner has stated that Stephens and Julius do not disclose specific values for the height and size of the aperture (second entrance) from which the products are dispensed. However, he feels that one of ordinary skill in the art could arrive at workable dimensions. Applicants believe that the combination of Stephens and Julius fails to render their invention obvious for the reasons stated above. One skilled in the art would have to do more than simply vary the size of the dispenser's height and the dimensions of the second entrance to arrive at Applicants' presently claimed invention. Because of this, Applicants believe that their claims 7, 9, 11, 17 and 18 are patentably distinct over the combination of Stephens and Julius and should be allowed at this time.

By way of the Office Action mailed May 26, 2006, Examiner Waggoner rejected claims 21 - 23 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 4,964,526 to Stephens in view of U.S. Patent Number 4,462,507 to Margulies. This rejection is respectfully **traversed** in view of the amendments made to independent claim 16.

Examiner Waggoner agrees that Stephens does not teach that the third member is movable beyond 180 degrees, 225 degrees or 270 degrees. Examiner Waggoner cites Margulies as teaching a lid that has a living hinge that allows the lid to move beyond 180 degrees. Applicants' dependent claims 21 – 23 depend from independent claim 16. For the reasons stated above, Stephens does not teach a dispenser having a top wall with a second entrance formed therethrough. In view of this structural difference, the combination of Stephens and Margulies fails to render Applicants' claims 21 - 23 obvious. Accordingly, Applicants believe that their dependent claims 21 – 23 are patentably distinct over the combination of Stephens and Margulies and should be allowed at this time.

For the reasons stated above, it is respectfully submitted that amended claims 1, 6, 10, 16 and 20, as well as dependent claims 2 – 5, 7 - 9, 11 – 15, 17 -19 and 21 - 23 are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: (920) 721-2455.

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Respectfully submitted,
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CERTIFICATE OF MAILING

I, Lanette Burton, hereby certify that on August 25, 2006, this document is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By: Lanette Burton
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